



AUSTRALIAN INSTITUTE of  
SUPERANNUATION TRUSTEES

11 August 2017

General Manager  
Retirement Income Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

Email: [superannuation@treasury.gov.au](mailto:superannuation@treasury.gov.au)

Dear Sir/Madam

**Re: Treasury Laws Amendment (Improving Accountability and Member Outcomes) Bill 2017:  
Superannuation Guarantee (Salary Sacrifice Integrity Measures)**

**In brief:**

AIST welcomes these changes which will remove the loopholes which presently allow employers to reduce the Superannuation Guarantee (SG) entitlements of employees who use salary sacrifice arrangements. AIST suggests that the effectiveness of this measure could be enhanced by using gross remuneration as the basis of calculation of the SG, and removal of the ability for employers to generically label concessional contributions in SuperStream.

AIST thanks Treasury for the opportunity to comment on this Exposure Draft. This submission contains AIST's comments in relation to the changes to salary sacrifice arrangements. Our other recommendations in relation to the Exposure Draft packages: *Treasury Laws Amendment (Improving Accountability and Member Outcomes) Bill 2017* will be contained in a separate submission.

AIST welcomes this Exposure Draft (ED) which seeks to remove the loopholes applying to employees who contribute to superannuation via salary sacrificing arrangements. Where offered, salary sacrifice represents an efficient and effective way for employees to top up their superannuation balances, without the risks associated with direct debit arrangements, or the discipline needed for large one-off contributions.

The changes in this ED will remove the two primary loopholes which can see employers use salary sacrificed amounts to reduce their Superannuation Guarantee (SG) liability, as well as using the reduced salary base to recalculate smaller SG liabilities.

AIST supported the recommendations in the Cross-Agency Working Group's report (as well as in the Senate Economics References Committee's report) which recommended that these loopholes be closed down. As such, we support this Exposure Draft and wish to see it implemented without

delay. Whilst we admit to some disappointment that this cannot be implemented any earlier than July 2018, we enthusiastically recommend its passage through Parliament and applaud the commitment the Government has displayed with respect to this legislation

This measure will ensure that members are not short-changed when entering into salary sacrifice arrangements with their employers. However, we believe that there are two enhancements that could have been made to this measure to ensure that this was even more useful to super fund members.

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Page | 2

First, we note that the calculation for salary sacrifice entitlements will now take place at a recalculated base, set as the pre-salary sacrifice base. The definition (as explained at paragraph 1.13-1.15 of the draft Explanatory Memorandum (EM)) adds back sacrificed amounts which have been sacrificed for superannuation purposes. Whilst this improves the salary base for SG calculation purposes, we note that it does not consider other amounts that may have been removed from the salary amount, such as reportable fringe benefits.

In addition to this issue, we point out the considerable uncertainty that exists at employers around what is considered to fall within Ordinary Time Earnings (OTE). OTE has been the subject of numerous attempts at clarification by the ATO, most recently in the form of Superannuation Guarantee Ruling SGR 2009/2 which clarified that no form of overtime, even if required to be regularly worked by an employee, formed part of OTE.

AIST believes that a more elegant solution to these problems would be to make the SG payable on gross remuneration. This avoids complex formulae and ensures that employees' mandated retirement savings is calculated the way that it is intended.

Finally, we note that SuperStream still allows employers to make all concessional contributions to funds under a generic label, whether they are SG, salary sacrificed or any other class of concessional contribution able to be made by employers. The downstream effects of this are myriad, and removes the ability of non-SG amounts being properly reported to funds or the ATO. We recommend removal of generic labelling of concessional contributions and recommend that the source of all concessional contributions be cleanly labelled.

Please contact Richard Webb, Policy & Regulatory Analyst on 03 8677 3835 or at [rwebb@aist.asn.au](mailto:rwebb@aist.asn.au) should you wish to discuss our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Eva Scheerlinck', written over a horizontal line.

Eva Scheerlinck  
**Chief Executive Officer**



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SUPERANNUATION TRUSTEES

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*AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.*